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SHERIFF'S OFFICE

SCOTT E. PEDLEY, Sheriff

F. JOHN REICHLING, Chief Deputy

TO:

The Honorable Senator Dave Hansen

FROM:

Sheriff Scott Pedley

DATE:

February 21, 2001

RE:

AB-7 / Anhydrous Ammonia Thefts

Attached to this correspondence is a photocopy of a news release from my agency regarding a anhydrous ammonia theft which occurred just last Friday here in Lafayette County. This is the second recent case in which persons from either Illinois or Iowa have entered into Lafayette County for the purpose of stealing anhydrous ammonia. Within the past 18 months, Lafayette County has had approx. 30 meth labs detected.

It is my understanding that Assembly Bill 7 will soon be considered by the Senate Committee on Labor and Agriculture. As Sheriff I have personally seen the devastation caused by the ingestion of methamphetamine. Additionally, it is a felony in Illinois, Iowa, and other states to steal anhydrous ammonia for purposes of the manufacture of illicit substances. The passage of the language contained in AB-7 would be an extremely helpful tool for law enforcement personnel.

My county is a potential gateway for this wildfire drug to enter our state. I hope you and other members of the Senate will carefully consider and eventually pass this important legislation.

Thank you for your consideration of this matter and please feel free to contact me if you have any questions about the information contained herein or if I may be of assistance to you in any other manner.

Sheriff

cc: Senator Dale Schultz
Senator Chuck Chvala
Representative Steve Freese

NEWS RELEASE

February 16, 2001

At 4:08 A.M. today the Lafayette County Sheriff's Department received a call from a person reporting suspicious activity on CTH H in Benton Township just east of the City of Cuba City, WI. at a location where anhydrous ammonia tanks are stored by a farm supply firm. A suspect vehicle description was provided and a Lafayette County Deputy immediately responded to the area. The deputy encountered the vehicle matching the description of the one identified during the telephone call. The suspect vehicle fled the area, a brief pursuit occurred and the suspect vehicle stopped in a private driveway along CTH J.

The vehicle was occupied by Michelle M. Wienan, age 27, of rural Galena, IL. Michelle M. Wienan and the passenger in the vehicle, Kenneth M. Wienan, age 31, also of rural Galena, IL., were both taken into custody. A loaded semi-automatic handgun was recovered from within the vehicle as well as a container of anhydrous ammonia, suspected methamphetamine, and other suspected precursors used in the production of methamphetamine.

Mr. and Mrs. Wienan are both being held at the Lafayette County Jail. Michelle Wienan will be referred to the Lafayette County District Attorney for the following criminal charges: Fleeing An Officer, Party to the Crime of Theft, Party to the Crime of Carrying a Concealed Weapon, and Party to the Crime of Possessing Methamphetamine with Intent To Deliver. Kenneth Wienan is being referred to the Lafayette County District Attorney for the following criminal charges: Theft, Carrying a Concealed Weapon, and Possessing Methamphetamine With Intent to Deliver.

Lafayette County Deputies were assisted at the scene by members of the Darlington Police Department, Grant County Sheriff's Department and the State Line Area Narcotics Team (SLANT) Drug Task Force. The investigation of this incident is continuing.

This criminal case investigation would not have occurred without the input from a very alert and responsible citizen witness who telephoned the Sheriff's Department as well as good police work done by the responding deputy and other law enforcement officers at the scene.

As a direct result of the investigation in Lafayette County, members of the SLANT Drug Task Force have obtained a search warrant today for the Wienan's residence in rural Galena, IL. and a methamphetamine lab and related evidence have been located there. The investigation by SLANT and the Federal Drug Enforcement Agency (DEA) is continuing at that location in Jo Daviess County.

(*Note: Any media sources in need of additional information about the search warrant should contact the Illinois State Police at 1-800-382-4554).

SLANT is comprised of law enforcement officers from the Illinois State Police, Loves Park, Freeport, and Lena Police Departments, the Boone County and Stephenson County Sheriff's Police all in Illinois, as well as the Beloit, Janesville, Monroe Police Departments, and the Green, Rock and Lafayette County Sheriff's Departments in Wisconsin.

The Wienans continue to be held in the Lafayette County Jail.

Scott E. Pedley

Sheriff



Wisconsin Federation of Cooperatives

131 West Wilson Street, Suite 400, Madison, WI 53703
Phone: 608.258.4400 Fax 608.258.4407 www.wfcmac.org wfcmac@wfcmac.org

Date

February 27, 2001

TO:

Members. Senate Committee on Labor and Agriculture

FROM:

John Manske, Director of Government Relations

RE:

Support for Assembly Bill 7

On behalf of the Wisconsin Federation of Cooperatives (WFC) and our 70 farm-supply cooperative members, I request your support of AB 7, relating to the theft of anhydrous ammonia. Assembly Bill 7, authored in the Senate by Sen. Erpenbach, is before your committee Wednesday, February 28.

The theft of anhydrous ammonia for the purpose of manufacturing methamphetamine ("meth") has been a particular problem along Wisconsin's western border. Minnesota residents of the Twin Cities area have been conducting their incursions into Wisconsin to steal the popular agricultural fertilizer. In addition, many Wisconsin cooperatives and individuals across the state have been victims of this dangerous activity over the past couple of years.

Our border states, including Minnesota and Iowa, have enacted laws aimed at discouraging the theft of anhydrous ammonia. Because of this, it is a greater problem for Wisconsin business and law enforcement as residents of neighboring states move their illegal activity to Wisconsin. WFC believes that the enactment of AB 7 will discourage this growing illegal activity in our rural areas.

Many Wisconsin businesses and individuals have taken their own steps to lessen access by unauthorized individuals to anhydrous ammonia. But due to the nature of the storage, transport and application of anhydrous ammonia, it is neither possible nor affordable to safeguard it at all times. Passage of AB 7 will help in the fight against the illegal activity.

Thank you for your consideration of this request.



5302 Eastpark Blvd. P.O. Box 7158 Madison, WI 53707-7158

LEGISLATIVE POSITION

To: Senate Committee on Labor and Agriculture

From: Cory Mason, Government Relations Coordinator

Date: February 27, 2001

Re: Assembly Bill 7 - Anhydrous Ammonia

The State Bar of Wisconsin Litigation Section **supports with amendment Assembly Bill 7**, relating to the storage and handling of anhydrous ammonia, creating an exemption from civil liability, and providing a penalty.

Assembly Bill 7 creates an exemption from civil liability and confers immunity on those using, installing or maintaining anhydrous ammonia or related equipment. The immunity is limited to claims brought by individuals who were injured while taking anhydrous ammonia or damaging or taking anhydrous ammonia equipment without the owner's consent. The purpose behind the Bill is to ensure those engaging in criminal behavior do not recoup for injuries sustained while committing a crime. Anhydrous ammonia is, as the Legislative Reference Bureau noted, often used in the production of the street drug Methamphetamine. However, the grant of immunity that the Bill proposes will prevent suits not only by those involved in the drug trade, but also by Wisconsin children as well.

It is well known that anhydrous ammonia is commonly found on Wisconsin farms where it is lawfully used as a fertilizer and in Wisconsin industry where it has a wide variety of legitimate uses. It is also well known that the substance is extraordinarily dangerous. A recent study at the University of Missouri-Columbia explains that even a minute amount of anhydrous ammonia gas may cause severe, if not lethal, injury to one exposed to it.

For example, at just five parts per million, the gas is detectable by almost everyone who encounters it. At 700 parts per million, those exposed to the gas cough uncontrollably and suffer severe eye irritation which if untreated will lead to partial or total blindness. At 1,700 parts per million, serious lung damage ensues. At 2,000 parts per million, the skin burns and blisters within a few seconds. At 5,000 parts per million (less than 1% by volume), death by suffocation occurs within minutes. [D. Baker, Using Agricultural Hydrous Ammonia Safely

http://muextension.missouri.edu/xplor/agguides/agengin/g01920.htm

With the pervasive and dangerous presence of anhydrous ammonia, it is foreseeable that farm or other children may encounter this danger, especially if the owner fails to follow state or federal regulations that govern the storage and handling of anhydrous ammonia. Some may encounter the substance because those responsible for it do not safely use or store it. But children are mischievous and curious as well. Others may encounter the substance because they are too young or inexperienced to appreciate the danger and investigate too far. The law sometimes refers to this as an attractive nuisance.

The conduct immunized in proposed §101.10(3) will be broad enough to cover these children who suffer serious injury as a result of such a chance encounter. We suggest that the liability exemption be limited to those involved in truly criminal conduct and be modified to read as follows:

895.555 Liability exemption; anhydrous ammonia. (1) LIABILITY EXEMPTION. Except as provided under sub. (2), any person who owns, maintains, or installs anhydrous ammonia equipment, as defined in §101.10(1)(b), or who uses anhydrous ammonia for any legal purpose is immune from any civil liability for acts or omissions relating to the anhydrous ammonia equipment or to anhydrous ammonia that cause damage or injury to an individual, if that damage or injury occurs during the individual's violation of s. 101.10(3)(c), (d), or (e), and if such individual intended to utilize such anhydrous ammonia equipment or anhydrous ammonia in the production, sale, or distribution of a controlled substance.

(2) EXCEPTION. A person is not immune from civil liability under sub. (1) if the damage or injury is caused by the person's reckless or wanton acts or omissions or by acts or omissions intended by the person to cause damage or injury.

This change would have the desirable effect of limiting immunity to those who steal the substance in order to use it in the street drug trade while having the equally desirable effect of protecting Wisconsin's children who may be too young or inexperienced to appreciate the true danger presented by this substance.

The Litigation Section is a section of the State Bar of Wisconsin whose members include attorneys involved in litigation in Wisconsin's state and federal courts. The Section is composed of attorneys who represent persons injured as well as insurance companies and corporations who have been alleged to be responsible for those injuries. If you have any questions or concerns for our membership, feel free to contact Cory Mason, Government Relations Coordinator at the State Bar of Wisconsin at 1/800-444-9404 x6128, email at 'cmason@wisbar.org'; or Attorney George Burnett, Chair of the Litigation Section at 920/437-0476, email at 'rgb@lcojlaw.com'.

Senate Labor and Agriculture Committee February 28, 2001

Testimony of John Petty, Executive Director of Wisconsin Agri-Service Association, on Assembly Bill 7 relating to storage and handling of anhydrous ammonia, creating an exemption from civil liability, and providing a penalty.

Chairman Hansen and members of the Committee, thank you for holding this hearing on Assembly Bill 7 and showing your commitment to helping provide a solution to the spread of methamphetamine production in Wisconsin. I also appreciate the opportunity to provide the views of the Wisconsin Agri-Service Association (WASA) on combating methamphetamine proliferation. WASA represents nearly 500 member companies operating out of more than 700 locations, providing farmers and other customers with feed, seed, grain and farm supplies.

At the outset, we would like to offer our strong support for the intent of this bill, which would make it illegal to tamper with anhydrous ammonia containers or to transport anhydrous in unapproved containers. The bill would also indemnify lawful users of anhydrous from claims resulting from individuals tampering with their equipment.

Unfortunately, our industry has been unintentionally caught up with the menacing problem of methamphetamine production. The common method for small-scale illegal production of methamphetamine involves the use of precursor chemicals obtained from commonly available cold medicines. Other precursor chemicals such as sodium or lithium metal are used to provide a chemical reaction. The other material necessary for this illicit use is anhydrous ammonia.

Anhydrous ammonia is lawfully used as an agricultural fertilizer and in industrial refrigeration. In agricultural applications, it is an efficient source of nitrogen. Nitrogen from ammonia plays an especially important role as a constituent of chlorophyll that is necessary for photosynthesis and plant growth. When stored for agricultural or for use in refrigeration purposes, it is liquefied under pressure in specialized containers. Liquid anhydrous expands 850 times when released to ambient air. For this reason, it is

injected under pressure safely and directly into the ground several inches below the surface using highly specialized, mechanical equipment in a process called 'knifing.'

Anhydrous is popular with farmers because it is the lowest cost form of nitrogen fertilizer available. However, criminals also like it because very small amounts of it are needed to make a batch of methamphetamine. In fact, enough 'residual' ammonia is left in a typical transfer hose for a criminal to use. Additionally, the fact that anhydrous speeds up the meth manufacturing process to just a few hours also makes it attractive to illegal drug manufacturers.

This theft and illicit use of anhydrous ammonia has posed real concerns to both our members and their farmer customers. Thieves have often damaged storage tanks resulting in spills harming innocent passersby. Valves have intentionally been left open or hoses have been cut resulting in releases that have forced residential evacuations. This says nothing about the environmental harm caused by the toxic refuse left from the manufacturing process, which is often dumped on roadsides, or in farmer's fields.

Wisconsin is the only state of our contiguous neighbors that does not have an anti-tampering law. This creates the opportunity for meth manufacturers to 'cherry-pick' Wisconsin. Anhydrous thieves have, and will continue, simply to travel into our state to steal anhydrous in order to avoid stiffer penalties in their home states. At present, the only possible penalties they may incur would be simple trespassing and misdemeanor theft as the amount they would actually steal is valued in single dollars.

At this point, I wish to emphasize, there is absolutely no legitimate reason, or safe method, for anyone to siphon small amounts of anhydrous from a storage tank. Anyone thinking this might be great fertilizer for their back-yard rose garden, needs to think again. Anhydrous simply can not be applied by hand as I have explained earlier. It requires very specialized and large equipment. This brings us to the second point of the bill.

The meth manufacturers typically use whatever they can get their hands on to hold the small amounts of anhydrous they steal. These vessels include but are not limited to thermos bottles, igloo-type coolers and propane gas grill tanks. Needless to say, none of these carriers are federally approved anhydrous storage containers. I will go on record as stating once again; there is no legitimate agricultural purpose for anyone transporting anhydrous in a thermos bottle. The person, carrying anhydrous in this way, is on their way to make meth. Period. Because the amount of this hazardous chemical in a thermos bottle falls below the

100-pound reportable quantity threshold by the EPA, and since it is not being transported in furtherance of interstate commerce under DOT regulations, there are no penalties for transporting it in such a manner.

Sadly, because we live in such litigious times, we believe the indemnification of innocent agricultural supply dealers or their farmer customers, is important. Exposure to anhydrous can be a serious health hazard. Effects of inhalation range from lung irritation to severe respiratory injuries. It is also corrosive and can burn skin and eyes. When skin is exposed to anhydrous in a liquid state, with a temperature of minus 28 degrees Fahrenheit, it can cause freezing burns. There have been numerous reports here in Wisconsin of anhydrous thieves injuring themselves in the process of damaging storage equipment or in the process of transferring the chemical into unapproved containers. Unfortunately, as meth usage spreads so will the number of thefts and related injuries. The one group that should not have to bear the financial burden of illicit meth production is innocent business people and farmers.

As an association, we have prepared and delivered brochures and informational flyers to our membership to alert them to the signs of theft; how to respond to suspicious activity and deter theft at dealerships. In addition, we have encouraged our membership to share this information with their farmer customers. We, as an association, have also evaluated various theft-deterrence options including fencing, lighting and valve locks for anhydrous storage tanks. Each option provides some level of deterrence, but they can be costly to install. Still, we have made great progress in making our membership and customers aware of the problem, but there is further effort that is needed to accomplish fuller objectives in fighting the spread of meth in Wisconsin. Passage of this bill will be a very large step in the right direction.

Again, thank you for the opportunity to express our views and I welcome any of your questions.

Senate

Committee on Labor and Agriculture Senator Dave Hansen, Chair

PAPER BALLOT

Date:

February 28, 2001

Bill:

Assembly Bill 7 -- Relating to: storage and handling of anhydrous ammonia,

creating an exemption from civil liability, and providing a penalty.

Motion:

Passage

Moved by: Baumgart

Seconded by: Harsdorf

Senator Russ Decker

Please return to Senator Hansen's office (by messenger) by 4 pm TODAY (2/28/01).

Thank you. Please call the Committee Clerk, Lisa Ellinger, at 266-5670 if you have any questions.

Vote Record

Senate - Committee on Labor and Agriculture

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Committee Member Sen. David Hansen, Chair Sen. Russell Decker (paper) Sen. Jim Baumgart Sen. Alan Lasee (pollung) Sen. Sheila Harsdorf		Aye No	Absent	Not Voting
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	on Carried	Motion	Failed	